

Evaluating the understanding and implementation of Non-compliance with Laws and Regulations

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Purpose: Recent examples of corporate misconduct have increased the responsibility of entities and the accounting profession to regain public trust. Adherence to laws and regulations supports good corporate citizenship and public trust in ethical cultures. The International Ethics Standards Board for Accountants (IESBA) formulated a framework for responses to 'Non-compliance with Laws and Regulations' (NOCLAR) in 2016. The objective of this study is twofold: (1) to determine the level of perceived understanding of NOCLAR among those charged with its implementation, and (2) to evaluate whether the requirements of NOCLAR are appropriately implemented.

Design/methodology/approach: An empirical study was performed by distributing a survey to all South African professional accountants with registered e-mail addresses with the South African Institute of Chartered Accountants (SAICA).

Findings/results: The findings indicate: (1) a strong perceived understanding and awareness of NOCLAR, but (2) that all requirements of NOCLAR are not adhered to. This indicates that while professional accountants in South Africa are aware of NOCLAR provisions, there are obstacles to its implementation and that its full value is not obtained in the drive to strengthen public trust.

Practical implications: Member bodies of the International Federation of Accountants (IFAC) will have to consider practical solutions to ensure deeper understanding of the requirements of NOCLAR, monitoring its implementation and addressing implementation challenges.

Originality/value: Limited research is available on the practical implementation of NOCLAR, and the study contributes to the narrative by evaluating both the understanding and implementation of NOCLAR as part of the drive to strengthen public trust.

Keywords: NOCLAR; corporate governance; non-compliance; laws and regulations; professional accountant; public trust; corporate citizenship; IESBA.

Introduction: current corporate governance landscape and public trust

The 21st century has seen the rise of the Fourth Industrial Revolution (4IR) that encompasses more than technology-driven change (World Economic Forum, 2019). It has brought about a new global economy and fundamental changes in business that demand new forms of governance to protect public interest (IoDSA, 2016; World Economic Forum, 2019). The South African King IV report on corporate governance ('King IV'), a globally recognised governance report, sets out principles and good practices of corporate governance. According to King IV, good governance is achieved, among others, by creating an ethical culture and identifying corporate citizenship as an essential philosophy of good governance (IoDSA, 2016). Corporate citizenship acknowledges that organisations form an interconnected part of society as a whole and that this identity presents the organisation with rights, but also the responsibility to uphold their co-dependent relationship with their stakeholders (IoDSA, 2016).

A key shift in the global economy includes stakeholder management. Both internal and external stakeholder expectations of organisations, those charged with their governance as well as the accounting and auditing profession ('profession') have increased exponentially (Fiolleau et al., 2023; IoDSA, 2016). The concept of corporate citizenship includes the management of the trust that external stakeholders place in an entity as well as the professional to conduct themselves ethically (IFRS Foundation, 2022; IoDSA, 2016; Thorne et al., 2023). According to the 2020 Global

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Competitiveness Report issued by the World Economic Forum, ensuring that strong governance principles are applied in organisations to gain the public's trust, is one of the top priorities in the current corporate environment (World Economic Forum, 2020).

One component of public trust in entities includes reputation-based trust that is grounded in how the entity itself and individuals that represent the entity, relate to their stakeholders (Pirson et al., 2019). High profile international corporate failures such as the Enron, WorldCom and Lehman Brothers' deceitful accounting practices to conceal debt in the early 2000s, as well as the 2008 financial crisis, shattered the profession's credibility worldwide. It also significantly diminished public trust in the ethical cultures and corporate citizenship of entities (Fiolleau et al., 2023). In South Africa, share prices of Steinhoff International Holdings tanked because of financial and accounting fraud allegations in 2017; and the role of the international auditing firm, Deloitte, who signed off the audit report is also being investigated (Bowker et al., 2017). South Africa has also recently been associated with state capture allegations of political misconduct through collusion between politicians and private sector entities, and the infiltration of a criminal network into state-owned entities and public institutions has been confirmed (Naidoo, 2022). This has had a severely negative impact on public trust and service delivery in South Africa as well as an adverse impact on entities such as South African Airways, Transnet, Denel, the South African Revenue Service and the Government Communications and Information Service (Naidoo, 2022).

Public trust in organisations as corporate citizens has broken down and the profession, in particular, is under fire as there is concern that auditors did not manage to prevent recent scandals (Hay, 2015). Building public trust has always been a fundamental responsibility of accountants. Accountants, both as employees of entities as well as providers of accounting and auditing services, play a pivotal role in fulfilling regulatory functions that build trust in entities and protect the profession (Jules & Gagnon, 2021; Rathnasamy & Mahabeer, 2021). Stakeholder expectations place a heightened responsibility on organisations to act ethically and a key driver of an ethical environment is compliance to relevant laws and regulations. These expectations drive organisations and the profession to be vigilant in identifying instances of non-compliance with laws and regulations. Failure to act on illegal activity and instances of non-compliance with laws and regulations leads to a loss of public trust as well as possible criminal charges for both the professional and the organisation (Rathnasamy & Mahabeer, 2021).

An ethical tension has, however, developed between the accountant's fundamental responsibility to maintain confidentiality of employer or client information, and maintaining public trust in cases of identifying acts of non-compliance with laws and regulations (Fiolleau et al., 2023). In response to growing pressure from the public, securities

markets and other regulators, the International Ethics Standards Board for Accountants (IESBA) carried out a thorough process to address the instability created for stakeholders because of the lack of disclosure of acts of non-compliance with laws and regulations by professional accountants (Fiolleau et al., 2023). In 2016, the IESBA adopted 'Non-compliance with Laws and Regulations' ('NOCLAR'), which sets out a framework of responsibilities for professional accountants, both as employees of entities and providers of professional services to clients, in instances of suspected NOCLAR. Within the context of this research, NOCLAR is used both as an acronym referring to the framework and an abbreviation for instances of non-compliance with laws and regulations.

Codes of ethics advance public trust (Thorne et al., 2023). As NOCLAR is included in the IESBA Code of Ethics, the adoption of NOCLAR is expected to improve public trust. NOCLAR redefined professional accountants' responsibilities, as it resolves the inherent ambiguity in the mutually exclusive principles of confidentiality and the duty to report suspected acts of NOCLAR (IESBA, 2017; Fiolleau et al., 2023; Rathnasamy & Mahabeer, 2021; Wymeersch, 2017). In South Africa, NOCLAR provisions are included in sections 260 and 360 of the South African Institute for Chartered Accountants ('SAICA') Code of Professional Conduct ('the SAICA Code'), and were effective 15 July 2017 (SAICA, 2017, 2022a). The implementation of NOCLAR is in relatively preliminary stages, and limited research has been performed on its implementation in South Africa.

The structure of the research

The article is structured as follows: (1) an overview of NOCLAR, its broad application and implementation challenges is given to provide context for the current landscape; (2) a review of historic research on NOCLAR was performed to identify a gap in the research; (3) the problem statement is outlined and the research objective is formulated; (4) a discussion of the survey methodology to address the research objectives follows; (5) findings in the form of descriptive analytics are provided to analyse the results of the survey; and (6) the research concludes on the context and key findings, and identifies areas of further research.

Non-compliance with laws and regulations: A brief overview

The IESBA is an independent, international association of professional accountants, and is the ethics board that maintains the international code of ethics for the International Federation of Accountants ('IFAC') to ensure consistency of ethics requirements internationally. It is charged with instituting an international code of ethics for over 3 million professional accountants worldwide (Fiolleau et al., 2023). The stated IESBA objective is to 'serve the

public interest by setting high-quality ethics standards for professional accountants' (IESBA, 2017; Wymeersch, 2017). Codes of ethics are crucial contracts between the public and the accounting profession that protect stakeholders and secure the profession's ethical responsibilities (Rathnasamy & Mahabeer, 2021; Thorne et al., 2023). Members of IFAC are national accounting organisations and IFAC mandates its members, such as SAICA, to adopt the standards and codes set by the IESBA (Allen & Mair, 2019; Thorne et al., 2023).

Instances of NOCLAR is defined by the SAICA Code as follows: 'Non-compliance with laws and regulations comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations' (SAICA, 2022a). This applies to acts committed by:

- The professional accountant's employing organisation or client.
- Those charged with governance of the employing organisation or client.
- Management of the employing organisation or client.
- Other individuals working for or under the direction of the employing organisation or client (SAICA, 2022a).

Non-compliance with Laws and Regulations (NOCLAR) is a response framework, and its objective is to provide guidance to professional accountants on their responsibilities and responses when they come across suspected acts of NOCLAR committed by clients, in their capacity as external service provider, or their employer, in their capacity as accountant in business as a means to protect and maintain public trust (Allen & Mair, 2019; Fiolleau et al., 2023; Rathnasamy & Mahabeer, 2021; SAICA, 2017; Wymeersch, 2017).

In South Africa, the SAICA Code is applicable to all chartered accountants, associate general accountants, as well as trainee accountants, referred to as 'professional accountants' in the SAICA Code (SAICA, 2017). Non-compliance with Laws and Regulations (NOCLAR) differentiates the responses to suspected fraud and breaches of law, based on the professional accountant's role within the employing organisation, in the case of professional accountants in business. In this instance, NOCLAR distinguishes between senior professional accountants in business and other professional accountants in business. In the case of professional accountants in public practice, NOCLAR distinguishes between auditors and professional accountants who provide other professional services (Fiolleau et al., 2023; IESBA, 2017; SAICA, 2017). In the SAICA Code, responding to instances of NOCLAR involves six steps: (1) becoming aware of the suspected instances of NOCLAR, (2) obtaining an understanding of the suspected instances of NOCLAR, (3) discussion of the matter with relevant individuals, (4) determining whether further action is needed, (5) deciding on the further action required, and (6) documentation (Fiolleau et al., 2023; SAICA, 2022a).

Non-compliance with laws and regulations: Practical challenges

The implementation of NOCLAR intends to assist in rebuilding public trust in the ethical cultures and corporate citizenship of entities to protect stakeholder interests. Even though failure to comply with the SAICA Code constitutes punishable conduct, which could lead to fines (SAICA, 2023) and NOCLAR includes both required and recommended steps to be taken in reaction to instances of NOCLAR, professional accountants cannot be legally forced to take these steps (Fiolleau et al., 2023; IESBA, 2017).

The challenges related to taking the steps required by the SAICA Code, when instances of NOCLAR have been identified, include: (1) the Code itself cannot provide protection given the varying legal and regulatory landscapes globally; (2) disclosing instances of NOCLAR may lead to serious practical consequences for convicted individuals and retribution against the reporting professional accountant; and (3) the code recognises potential for unintentional consequences to the implementation of NOCLAR based on the range of international jurisdictions to which it applies (Fiolleau et al., 2023). In terms of enforcement, it is therefore unclear how national accounting bodies will ensure compliance with NOCLAR (Fiolleau et al., 2023). Another potential hurdle for the implementation of NOCLAR is the fact that in some jurisdictions, whistleblower's protection may not be available to the reporting professional (Allen & Mair, 2019). Even though the *Protected Disclosure Act*, together with the *Companies Act section 159* aims to provide whistleblower protection in South Africa, individuals may fear the consequences of reporting instances of NOCLAR.

There are currently no laws mandating the implementation of NOCLAR and its practical implementation will require a period of educating the individuals to whom it applies (IFAC, 2019). Even though the laws and regulations addressed by the NOCLAR pronouncement are the same as the laws and regulations a professional accountant is expected to have knowledge of in order to perform a specific engagement or occupation (IESBA, 2017; SAICA, 2022a), laws and regulations are continuously changing. As professional accountants are not legal experts, they might not have the necessary level of knowledge of all laws and regulations relevant to the work they are conducting at any given time. In the South African context, examples of legal updates that could potentially put businesses and the public at risk because of non-compliance include, among others, the *Protection of Personal Information Act*, the *Basic Conditions of Employment Amendment Act*, the *Employment Equity Act*, the *Broad-Based Black Economic Empowerment Act*, the *Financial Intelligence Centre Act (FICA)*, the *Competition Act*, as well as laws applicable to health and safety and environmental legislation (Nexis, 2016).

Review of historic research contributions

Even though ethical corporate culture, and the associated compliance with laws and regulations, has come under scrutiny in recent times, Rathnasamy and Mahabeer (2021) recognise that there is very limited academic research on the implementation of NOCLAR globally, but specifically also in the South African context. Current available publications and research, as detailed in Table 1, focus on three main areas: (1) a review of the background and context to the development of NOCLAR; (2) an explanation of the requirements of NOCLAR provisions; and (3) commentary on the possible impact of the implementation of NOCLAR. The findings of research on NOCLAR are limited, and all relevant findings in the review of previous literature have been used and referenced throughout this research.

Fiolleau et al. (2023) call for further research on concerns with the implementation of NOCLAR. The level of understanding of NOCLAR among professional accountants in South Africa is currently unknown (Rathnasamy & Mahabeer, 2021). Because of its relative infancy, there is a lack of understanding of the NOCLAR provisions included in the SAICA Code, which could lead to the incorrect implementation of the required response framework (Rathnasamy & Mahabeer, 2021). As a result, the benefits of the NOCLAR pronouncement to advance trust in ethical cultures are yet to be fully utilised in South Africa (Rathnasamy & Mahabeer, 2021).

A gap in NOCLAR research was identified as there are no identified studies that measure the extent of those charged with the implementation of NOCLAR's understanding of its requirements, or an evaluation of how effectively and appropriately the requirements are implemented in practice. An important function in maintaining corporate ethical culture through compliance with laws and regulations and protecting public trust is ensuring that professional accountants appropriately apply NOCLAR.

Problem statement and objective

The requirements of NOCLAR will promote the regaining of public trust in organisations world-wide, but also specifically in South Africa. However, because of its infancy, there may

be a lack of understanding of the NOCLAR requirements. If NOCLAR is not implemented correctly, it will not serve to strengthen ethical cultures. The objective of this study is, therefore, two-fold: Research Objective 1 ('RO1') – to assess the level of perceived theoretical understanding of NOCLAR among those charged with its implementation, and Research Objective 2 ('RO2') – to evaluate whether the requirements of NOCLAR are appropriately implemented where instances of NOCLAR are identified.

Research design and methodology

The research methodology falls within the positivist paradigm. The research followed an empirical methodology to collect data through a survey and analyse it through descriptive analytics. The following characteristics apply to the survey:

- *Population and distribution:* In South Africa, the NOCLAR framework is included in the SAICA Code, and all professional accountants in South Africa are therefore charged with its implementation. The survey was, therefore, distributed by SAICA via email to all South African members with registered e-mail addresses, and participation in the research was voluntary.
- *Survey design:* The survey comprised of both closed-ended and open-ended questions. The closed-ended questions produce data that are analysed using predominantly descriptive analysis. The open-ended questions produce data that were incorporated into the descriptive analysis using thematic analysis. Because of a lack of current research relating to the implementation of NOCLAR, there could be factors relating to the practical implementation of NOCLAR that have not been recognised. The inclusion of open-ended questions therefore afforded the respondents the opportunity to highlight factors not addressed by the closed-ended questions. The two research objectives were achieved through the following design:
 - The first part of the survey focusses on assessing the respondents' own evaluation of their theoretical understanding of NOCLAR, as well as their ability to identify and respond to instances of NOCLAR, through predominantly closed-ended questions and Likert-scale questions, with limited open-ended questions where further context was required. This part of the survey goes further to assess the respondents' exposure

TABLE 1: Summary of key findings of prior research.

Theme	Key findings
Development of NOCLAR	<ul style="list-style-type: none"> • Background to the formation of the IESBA and the reasons for the development of NOCLAR (Fiolleau et al., 2023).
Understanding the requirements of NOCLAR	<ul style="list-style-type: none"> • A comparison of the requirements and extent of responsibilities under the IESBA standard and the United States standards (Harrast & Swaney, 2017) • A review of NOCLAR requirements and steps required (Fiolleau et al., 2023; Wymeersch, 2017)
Impact of NOCLAR	<ul style="list-style-type: none"> • A review of how NOCLAR elevates professional responsibility (Thorne et al., 2023) • A review, through hypothetical scenarios, of the available protection for Certified Public Accountant (CPAs) in the United States for potential whistleblowers (Allen & Mair, 2019). • A discussion of the confidentiality requirement and NOCLAR requirements, the effect of implementation on public accountants and further challenges after the adoption of NOCLAR (Fiolleau et al., 2023; Oyardonghan, 2019; Rathnasamy & Mahabeer, 2021). • The impact of non-adherence to NOCLAR (Rathnasamy & Mahabeer, 2021).

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NOCLAR, Non-compliance with Laws and Regulations; IESBA, International Ethics Standards Board for Accountants.

to training on NOCLAR, the extent to which employing entities or firms are incorporating NOCLAR into their corporate policies and whether respondents feel protected, through closed-ended questions.

- The second part of the survey aims to evaluate whether NOCLAR is appropriately implemented in practical instances of suspected NOCLAR. The SAICA Code requirements in sections 260 and 360 were used as the basis to formulate predominantly closed-ended questions, with limited open-ended questions where further context was required, on the steps followed by respondents in cases of suspected NOCLAR. The responses are expected to indicate whether respondents are correctly applying the steps required by NOCLAR in practice. The actual implementation of NOCLAR in the findings of RO2 will be evaluated on whether it supports the respondents' perceived level of understanding as evaluated in RO1.
- *Testing of survey:* Before distribution, the survey was reviewed by auditing academics with corporate governance and ethics as their specialised field, as well as representatives of SAICA. The survey was pilot tested on a sample of potential respondents to identify any ambiguity and to evaluate the validity and completeness of the survey.

The IFAC members need to report the progress made in adopting new standards regularly for IFAC to monitor global adoption efforts (Jules & Gagnon, 2021). This study will be of value to professional IFAC member bodies, such as SAICA, in determining whether further training and education is required for its members to ensure proper implementation of NOCLAR. This study will provide insight into the adoption and practical implementation of NOCLAR in South Africa. The research is set in a South African context, but trends identified in South Africa may be indicative of the current implementation of NOCLAR globally.

Limitations of the study

Limitations of research questions

The first part of the survey largely constitutes a perceptions survey by assessing respondents' perceived understanding of the NOCLAR requirements. The findings do not aim to conclude on confirmed understanding, but rather the respondents' self-evaluation of their understanding.

Validity of survey results: Low response rate

A total of 123 South African professional accountants responded to the survey in December 2022. In 2022, there were just under 40000 SAICA members in South Africa (SAICA, 2022b). The precise population of the survey is not known as subscription to the SAICA mailing list is voluntary, and there is no defined population for the number of professional accountants that have identified instances of NOCLAR in South Africa. The response rate is, however, considered to be low.

Participation in the survey was subject to the participants' willingness to respond, which is driven by many subjective factors. This form of survey research is referred to as convenience sampling (Farrokhi & Mahmoudi-Hamidabad, 2012) and is subject to self-selection, which leads to a sample that is not necessarily representative of the population.

A key factor influencing the validity of survey results of convenience sampling is the respondents' characteristics in comparison to population characteristics (Farrokhi & Mahmoudi-Hamidabad, 2012). The characteristic relevant to this research is the role the professional accountant performs either as an accountant in public practice or in business. In 2022, SAICA members consisted of 53% professional accountants in business, 24% in public practice, 7% in government positions and 15% other (e.g. retired, etc.). The respondents' profiles consist of 59% professional accountants in business, 38% in public practice, 1% in government and 2% other.

Most respondents in the sample are professional accountants in business, with the second highest response category being professional accountants in public practice. The distribution of characteristics in the sample, therefore, resembles that of the population, and it was noted that responses were received from all categories of professional accountants in South Africa.

The validity of the findings was also addressed by incorporating a margin of error in the findings. The confidence interval (CI) was calculated using a 95% confidence factor, and is reported within our findings. Because the survey presented questions on a 5-point Likert scale, the CI did not significantly impact the findings.

Empirical findings and analysis

The analysis of responses will commence with the responses received from all professional accountants. The first section of the survey relates to RO1. Thereafter, the key findings relate to the responses to identified instances of NOCLAR or suspected NOCLAR to address RO2. The findings in this section will further aim to conclude whether the steps taken by professional accountants support the level of understanding assessed in RO1.

Findings related to Research Objective 1: Assessment of professional accountants' perceived level of understanding of non-compliance with laws and regulations

The survey questions related to RO1 are divided into three categories. Firstly, the survey aimed to determine whether professional accountants agree with the NOCLAR provisions in the SAICA Code and the professional duty it places on professional accountants, together with professional accountants' perception regarding whether sufficient protection is available when responding to instances of NOCLAR. Secondly, the survey included a set of questions

aimed at determining the professional accountants' exposure to NOCLAR resources and training, as well as the emphasis that the entities they are employed by places on upskilling staff members. Lastly, a set of survey questions aimed at determining the respondents' perceived level of understanding of the content of sections 260 and 360 of the SAICA Code was included.

Professional accountants' view on the inclusion of non-compliance with laws and regulations in the South African Institute for Chartered Accountants Code

Participants were required to rate their replies using a five-point Likert scale varying from 'Strongly agree' (1) to 'Strongly disagree' (5). A 2-rating was interpreted as the respondent agreeing to the statement and a 4-rating as disagreeing with the statement. A 3-rating indicated a respondent as being neutral (Table 2).

Even though the results included in Table 2 indicate that respondents agree that professional accountants should play a role in reporting instances of NOCLAR, the perceived protection from disclosing information that would otherwise be seen as confidential does not align with respondents' sense of duty to report these matters. This could potentially play a role in whether professional accountants will react in accordance with the steps required by the SAICA Code once an instance of NOCLAR is identified. These results support one of the expected challenges of the implementation of NOCLAR highlighted by Allen and Mair (2019) and Fiolleau et al. (2023), being that limited protection is available to professional accountants when taking the necessary steps in reaction to instances of NOCLAR. This may unfortunately deter the implementation of NOCLAR and prevent its value in rebuilding both trust in the accounting profession as well as ethical corporate culture.

Non-compliance with laws and regulations resources and training available to professional accountants

The implementation of NOCLAR is not mandated by legislation, and therefore its implementation will require educating the individuals to whom it applies (IFAC, 2019). The importance of upskilling professional accountants is further supported by Rathnasamy and Mahabeer's (2021) finding that the relative infancy of NOCLAR could contribute to the current lack of understanding of NOCLAR.

As evident from Table 3, 54% of respondents indicated that protocols, policies and/or methodologies relating to responding to instances of NOCLAR are available, and 74% of respondents indicated that they can receive other assistance and training related to NOCLAR. Further to the positive feedback relating to the level of exposure professional accountants have with regards to NOCLAR, 79% of respondents whose employers have protocols, policies and/or methodologies in place regarding NOCLAR indicated that they are familiar with the content of these resources. This should enable professional accountants to consult the relevant NOCLAR requirements when identifying instances of NOCLAR, which should aid them in responding appropriately. The positive feedback regarding NOCLAR training and other resources available to staff may indicate entities' commitment to compliance with ethical codes and regulations.

Professional accountants' level of perceived understanding of non-compliance with laws and regulations

When asked to indicate their level of understanding relating to NOCLAR, 90% of the respondents indicated that they are aware of the NOCLAR provisions included in the SAICA

TABLE 3: Exposure to non-compliance with laws and regulations resources and training material.

Survey questions	Options available to select	Percentage of respondents who selected the particular option (%)
Does the organisation you work for have protocols, policies and/or methodologies in place with regards to responding to instances of NOCLAR?	Yes	54
	No	23
	Unsure	23
If yes, are you familiar with the content of the protocols, policies and/or methodologies?	Yes	79
	No	18
	Somewhat	3
Does the organisation you work for provide assistance and training to ensure compliance with laws and regulations relevant to the employing organisation?	Yes, by means of an internal compliance division or internal lawyer	33
	Yes, by means of a company secretary	6
	Yes, by means of external parties	20
	Yes, by means of other measures not mentioned above†	15
	No support is provided	26

NOCLAR, Non-compliance with Laws and Regulations.

†, Other measures include predominantly internal communication, webinars and information received from SAICA.

TABLE 2: Participants' view on their professional duty to report instances of non-compliance with laws and regulations and their perceived protection in reporting these matters.

Statement	Mean	Median	Mode	Standard deviation	Margin of error ¹	CI ² lower range	CI ² upper range
<i>I agree that there should be an obligation to report instances of NOCLAR or suspected NOCLAR in accordance with the SAICA Code of Professional Conduct</i>	1.71	2	1	0.83	0.15	1.56	1.86
<i>I feel that I am sufficiently protected from non-adherence to the confidentiality requirements set out in section 114 of the SAICA Code when disclosing instances of NOCLAR or suspected NOCLAR to the relevant parties³, as required by the SAICA Code of Professional Conduct</i>	2.67	3	3	1.08	0.19	2.48	2.86

CI, confidence interval; NOCLAR, Non-compliance with Laws and Regulations; SAICA, South African Institute of Chartered Accountants.

¹, The margin of error was calculated based on a 95% confidence factor.

², CI = Confidence interval. This was determined by adding/subtracting the margin of error to calculate the range within which the population mean is expected to lie (with a 95% certainty).

³, The required parties are specific to the circumstances of the non-compliance. These may include the role of the professional accountant, whether there is substantial harm, the specific law and/or regulation applicable, etc.

Code or have a proper understanding of NOCLAR (Table 4). To take into account the fact that some respondents may have an awareness of the NOCLAR provisions without a proper understanding thereof, the results reported in Table 4 should be read in conjunction with the results reported in Table 5.

Furthermore, the survey contained four statements aimed at evaluating respondents' ability to identify and respond to instances of NOCLAR (Table 5). Participants were required to rate their replies using a five-point Likert scale varying from 'Strongly agree' (1) to 'Strongly disagree' (5). A 2-rating was interpreted as the respondent agreeing to the statement and a 4-rating as disagreeing with the statement. A 3-rating indicated a respondent as being neutral. Table 5 is ranked from the lowest to the highest mean, placing the statements with which respondents agreed most strongly with at the top of the table.

The survey results indicate that respondents seem to be confident that they will be able to identify instances of NOCLAR, but respondents appear to be less familiar with the responses required when identifying NOCLAR instances. The average mean to all four of the questions (included in Table 5) is, however, below 3 when taking the margin of error into account, indicating that respondents generally agree that they will be able to identify and respond to NOCLAR instances. The results indicate that respondents have access to resources related to NOCLAR, and they would be able to consult these resources once an instance of NOCLAR has been identified. Therefore, finding that respondents may not be confident in responding to an instance of NOCLAR, is not expected to be of concern.

Findings related to Research Objective 2: Evaluating whether the requirements of non-compliance with laws and regulations are appropriately applied

The circumstances surrounding the identified non-compliance will inform the nature of the identified instance of NOCLAR and consequently the steps that should be taken to address the matter. Therefore, the nature of non-compliance identified by the respondents should be analysed in order to contextualise the steps taken by the relevant professional accountant.

In all, 22% of the survey respondents have identified instances of NOCLAR since its implementation in South Africa. This section of the findings is focussed on those respondents who have identified instances of NOCLAR and will be analysed in two parts:

- Analysing the nature of the identified NOCLAR; and
- Evaluating the steps taken by professional accountants in reaction to instances of NOCLAR.

Analysing the nature of the identified non-compliance with laws and regulations

The two questions included in Table 6 were aimed at gaining context on the instances of NOCLAR identified by respondents, in particular those who committed the non-compliance and the category of laws and regulations that were not being adhered to.

Even though the definition of NOCLAR is broad in the sense that it includes non-compliance committed by anyone working for the organisation, and the legislation referred to includes those that professional accountants are not required to have detailed knowledge of, the results included in Table 6 indicate that 81% of instances of NOCLAR was committed by management level or higher. To be prudent, the 15% has not been included in the preceding percentage as the survey results could not determine the level of those involved at the identified client or employing organisation. The legislation involved relates to those that professional accountants can be expected to have knowledge of, which is in line with the expectation placed on professional accountants by the

TABLE 4: Respondents' understanding of non-compliance with laws and regulations as included in the South African Institute of Chartered Accountants Code.

Declaration of level of understanding of NOCLAR	Percentage of respondents (%)
I fully understand the definition of and my responsibility with respect to the NOCLAR provisions contained in sections 260 and 360 of the SAICA Code of Professional Conduct	36
I am aware of the NOCLAR provisions contained in sections 260 and 360 of the SAICA Code of Professional Conduct	54
I do not understand the NOCLAR provisions contained in sections 260 and 360 of the SAICA Code of Professional Conduct, but commit to undertake the necessary interventions to be able to respond positively to this declaration within the next six months	9
I do not understand the NOCLAR provisions contained in sections 260 and 360 of the SAICA Code of Professional Conduct and I do not intend to gain an understanding of NOCLAR	1

NOCLAR, Non-compliance with Laws and Regulations; SAICA, South African Institute of Chartered Accountants.

TABLE 5: Respondent's ability to identify and respond to non-compliance with laws and regulations.

Survey statement	Mean	Median	Mode	Standard deviation	Margin of error ¹	CI lower range ²	CI upper range ²
I would be able to identify an instance of NOCLAR or suspected NOCLAR in my current working environment	1.98	2	2	0.9	0.16	1.82	2.14
I know what the definition of NOCLAR is according to the SAICA Code of Professional Conduct	2.02	2	2	0.93	0.16	1.86	2.18
As a CA, I believe that I am fully equipped to identify instances of NOCLAR or suspected NOCLAR relevant to my client(s) / employing organization	2.14	2	2	0.98	0.17	1.97	2.31
I would know how to respond to an instance of NOCLAR or suspected NOCLAR	2.47	2	2	1.03	0.18	2.29	2.65

CI, Confidence interval; NOCLAR, Non-compliance with Laws and Regulations; SAICA, South African Institute of Chartered Accountants.

¹, The margin of error is calculated based on a 95% confidence factor.

², CI = Confidence interval. This was determined by adding/subtracting the margin of error to calculate the range within which the population mean is expected to lie (with a 95% certainty).

SAICA Code (SAICA, 2017). Both these indicators emphasise the importance of NOCLAR in the drive to rebuild public trust, as corporate scandals and failures in recent times have been driven specifically by individuals at management level and higher. If NOCLAR can assist in preventing the non-compliance, or at least address it timeously, it serves to strengthen ethical cultures.

Steps taken by professional accountants in reaction to instances of non-compliance with laws and regulations

The purpose of this section is to evaluate the steps taken by participants in response to identified NOCLAR to determine whether professional accountants are responding to instances of NOCLAR appropriately. It is the response to suspected NOCLAR that stakeholders would want to place trust in. The survey questions were focussed on: (1) obtaining an understanding of the matter; (2) discussing it with the relevant parties; (3) disclosing it to appropriate parties; and (4) determining whether further action is required (Fiolleau et al., 2023; SAICA, 2017). The survey did not include questions relating to the documentation of the matter as required by Fiolleau et al. (2023) and SAICA (2017), as this step will not have a direct impact on preventing the instance of NOCLAR from occurring, diminishing its negative impact or avoiding recurrence. Furthermore, documenting the instance of NOCLAR is only a SAICA Code requirement when auditors identify an instance of NOCLAR and it serves merely as a recommendation for all other professional accountants (SAICA, 2017).

The survey contained 41 detailed questions aimed at determining whether professional accountants took

TABLE 6: Nature of the non-compliance with laws and regulations instances identified.

Survey questions (summarised)	Options available to select	Percentage of respondents who selected the particular option (%)
<i>Who was the act committed by?</i>	A client/my employing organisation as an entity	15
	Those charged with governance of a client/my employing organisation	44
	Management of a client / my employing organisation	37
	Other individuals working for or under the direction of a client / my employing organisation	4
<i>Which category of laws and regulations did the identified instance of NOCLAR relate to?†,‡,§</i>	Fraud, corruption and bribery	30
	Money laundering, terrorist financing and proceeds of crime	37
	Banking and other financial products and services	37
	Tax and pension liabilities and payments	41
	Other‡,§	22

NOCLAR, Non-compliance with Laws and Regulations.

†, The total of this section does not add to 100%, as respondents could select more than one option. Some instances of non-compliances relate to more than one category.

‡, Other options provided in the survey, in accordance with the examples of NOCLAR provided in sections 260 and 360 of the SAICA Code, and which no respondents selected, are 'securities markets and trading', 'data protection', 'environmental protection' and 'public health and safety'.

§, Respondents who selected 'other' were asked to describe the nature of legislation not complied with. All of these responses related to non-compliance with the Companies Act, 2008.

appropriate steps as outlined by sections 260 and 360 of the SAICA Code. Some of the steps are required by the SAICA Code while others are recommended, depending on the nature and circumstances of the instance of NOCLAR. While 20 of the survey questions related to required steps, 21 of the questions related to recommended steps. The findings summarised in Table 7 are focussed on whether the required steps were taken by professional accountants in reaction to instances of NOCLAR.

The findings included in Table 7 indicate that professional accountants do not necessarily follow the steps specifically as required by the SAICA Code once an instance of NOCLAR has been identified. Only 39% of respondents gathered information about the nature of the act or circumstances of the instance of NOCLAR in obtaining an understanding of the matter; only 13% of respondents (in their capacity as professional accountants in public practice) discussed the matter with management of the client, and 16% of respondents indicated that conversations were held with those charged with governance as required by the SAICA Code. The participants who identified additional legislation that needed to be adhered to and those who identified instances of substantial harm, were more likely to take steps in reaction to these circumstances. However, the low response rate relevant to obtaining an understanding of the matter and discussing instance of NOCLAR with the required parties could be an indication that all other laws and regulations relevant to the

TABLE 7: Summary of required steps taken by professional accountants in reaction to instances of non-compliance with laws and regulations.

Survey statements based on the steps required by sections 260 and 360 of the SAICA Code	Percentage of respondents who took appropriate action (%)
(1) Obtaining an understanding of the matter	
When obtaining an understanding of the instance of NOCLAR, information about the nature of the act or circumstances of the instance of NOCLAR was gathered	39
(2) Discussing it with the relevant parties	
Discussions were held with the appropriate level of management (in the case of a professional accountant in public practice)	13
Discussions were held with those charged with governance	16
Discussions were held with immediate supervisor (in the case of a professional accountant in business)	6
(3) Disclosing it to appropriate parties†	
If additional legal and regulatory requirements had to be adhered to, did these requirements prompt you to take steps over and above the required reaction included in section 260 / 360 of the SAICA Code of Professional Conduct?‡	75
If there was an indication of substantial harm being caused by the instance of NOCLAR or suspected NOCLAR incident, was the matter reported to an appropriate authority?§	82
(4) Determining whether further action is required and if applicable, decide on appropriate further action	
Consider withdrawal from the engagement and professional relationship (in the case of a CA in public practice)	4
Consider resignation from the employing organization (in the case of a CA in business)	4

NOCLAR, Non-compliance with Laws and Regulations; SAICA, South African Institute of Chartered Accountants; CA, Chartered Accountant.

†, These actions will only be required under specific circumstances.

‡, 44% of survey participants indicated that additional legal and regulatory provisions were relevant to the identified or suspected NOCLAR.

§, 41% of survey participants stated that there was an indication of substantial harm.

instance of NOCLAR and instances of substantial harm might not be properly identified in the first place. Furthermore, only 4% of participants indicated that they considered withdrawing from an engagement or resigning from their employing organisation respectively.

A key finding that can be deduced from these responses is that although 90% of respondents indicated that they are aware of the NOCLAR provisions included in the SAICA Code or have a proper understanding of NOCLAR, as per the findings of RO1, the results of RO2 indicate a misalignment between professional accountants' perceived theoretical understanding of NOCLAR and the way in which they respond to an instance of NOCLAR once identified. This may hamper the building of public trust in both the profession and corporate cultures.

Conclusion

Recent instances of corporate failures, globally and in South Africa, have pushed ethical culture and corporate citizenship to the forefront of stakeholder expectations. Public trust in corporations has been damaged by acts of non-compliance with laws and regulations, including illegal and fraudulent behaviour, and both entities and the profession have felt the pressure to regain, rebuild and maintain public confidence. In 2016, the IESBA adopted NOCLAR as an active response to this break-down in public trust. The NOCLAR outlines responsibilities and responses in the event of identifying suspected NOCLAR by professional accountants in their employing entity or client.

The implementation of NOCLAR is still progressing, and limited research is available on the implementation, challenges or practical implications of NOCLAR. This study aimed to bridge this gap in research with two objectives: (1) to assess the perceived level of understanding of NOCLAR among professional accountants, and (2) to evaluate whether its requirements are appropriately implemented as NOCLAR serves as a cornerstone for strengthening trust in ethical culture and corporate citizenship. To meet the objectives of the study, a survey was distributed to professional accountants in South Africa, via their governing body, SAICA.

The findings indicate that a majority of respondents have an understanding of NOCLAR and its requirements and agree that there should be an obligation on professional accountants to report instances of NOCLAR. The majority of respondents also indicated that they have access to resources and other forms of training, which translates into a good theoretical understanding of NOCLAR and resources to consult once an instance of NOCLAR has been identified.

It was, however, identified that the respondents who identified instances of NOCLAR did not take all required steps in terms of sections 260 and 360 of the Code. This finding is in line with the fact that the SAICA Code is not being mandated legally and professional accountants not

feeling sufficiently protected in the event of whistleblowing. This finding indicates that a basic level of understanding of NOCLAR together with the availability of resources related to NOCLAR is insufficient in ensuring appropriate action being taken by professional accountants. What is however encouraging is that the majority of those who identified instances where substantial harm was indicated, did report these matters to the appropriate authorities. There is work to be done to ensure that professional accountants implement the requirements of NOCLAR in order for the full value of NOCLAR to be realised in regaining confidence in corporate culture and the profession at large.

Areas of further research

At the time of performing this research, no comprehensive documented information was available on reported instances of NOCLAR in South Africa. A valuable area of future research would be to assess the effectiveness of NOCLAR in preventing instances of NOCLAR using reported information.

In a consequential study, further research can be performed on the obstacles respondents encountered in following the specified requirements of NOCLAR, including understanding the reasons for not gathering information and reporting to the specified levels. Further research could also formulate questions beyond the requirements of NOCLAR, and include more open-ended questions.

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Competing interests

The authors declare that they have no financial or personal relationship(s) that may have inappropriately influenced them in writing this article.

Authors' contributions

M.P. conceptualised the gap in the research, designed the survey and analysed its findings. L.S. performed and wrote the literature review, and reviewed and edited the article.

Ethical considerations

Ethical approval to conduct this study was obtained from the Stellenbosch University Social, Behavioural and Education Research Ethics Committee. (No. 25220).

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Data availability

The data that support the findings of this study are available on request from the corresponding author, L.S., upon reasonable request.

Disclaimer

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